

Hearing Time: 11:00 a.m. on December 15, 2015

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

HEBREW HOSPITAL SENIOR HOUSING, INC. (A/K/A
WESTCHESTER MEADOWS CONTINUING CARE
RETIREMENT COMMUNITY AND FIELDSTONE AT
WESTCHESTER MEADOWS)

Debtor.

Chapter 11

Case No. 15-13264-MEW

**JOINDER AND RESERVATION OF RIGHTS OF THE 1199SEIU FUNDS TO THE
OBJECTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS IN
THE HHH CHOICES HEALTH PLAN, LLC BANKRUPTCY TO DEBTOR'S MOTION
FOR INTERIM AND FINAL ORDERS PURSUANT TO SECTIONS 105, 361, 362, 363,
364, 503, AND 507 OF THE BANKRUPTCY CODE (I) AUTHORIZING DEBTOR TO
(A) OBTAIN POST-PETITION FINANCING AND (B) USE CASH COLLATERAL, (II)
GRANTING LIENS AND SUPERPRIORITY CLAIMS, (III) MODIFYING THE
AUTOMATIC STAY, AND (IV) SCHEDULING A FINAL HEARING PURSUANT TO
FED. R. BANKR. P. 4001(b) and (c)**

The 1199SEIU National Benefit Fund for Health and Human Service Employees, the 1199SEIU Health Care Employees Pension Fund (the "**Pension Fund**"), the League/1199SEIU Training and Upgrading Fund, the 1199SEIU/Employer Child Care Fund, the League/1199SEIU/Health Care Industry Job Security Fund, the 1199SEIU National Benefit Fund for Home Care Employees, the 1199SEIU Home Care Employees Pension Fund and the

1199SEIU Home Care Industry Education Fund (collectively, the “**1199 Funds**”), creditors and parties in interest in the above-captioned case, by and through their undersigned counsel, hereby: (i) join the Objection of the Official Committee of Unsecured Creditors in the HHH Choices Health Plan, LLC Bankruptcy (the “**Committee Objection**”) [Docket No. 31] to Debtor’s *Motion for Interim and Final Orders Pursuant to Sections 105, 361, 363, 364, 503, and 507 of Bankruptcy Code (I) Authorizing Debtor to (A) Obtain Post-Petition Financing and (B) Use Cash Collateral, (II) Granting Liens and Superpriority Claims, (III) Modifying the Automatic Stay, and (IV) Scheduling Final Hearing Pursuant to Fed. R. Bankr. P. 4001(b) and (c)* (the “**DIP Motion**”) [Docket No. 5], (ii) fully incorporate by reference all factual and legal arguments set forth therein, and respectfully represents as follows:

BACKGROUND

1. The 1199 Funds are Taft-Hartley employee benefit welfare plans as defined under applicable law, which are established and maintained pursuant to collective bargaining agreements (the “**CBAs**”) entered into between 1199SEIU United Healthcare Workers East (“**1199**” or the “**Union**”) and employers, including, *inter alia*, Hebrew Hospital Senior Housing, Inc. (the “**Debtor**”) and its affiliate HHH Choices Health Plan, LLC (“**HHH Choices**”), and other affiliated entities.¹ Copies of the relevant CBAs are attached hereto as Exhibit A.

2. The Pension Fund is a multi-employer pension fund as defined by the Employee Retirement Income Security Act (“**ERISA**”) and the Multiemployer Pension Plan Amendments Act of 1980 (“**MPPAA**”), 29 U.S.C. §§ 1002(37)(A), 1301(a)(3).

¹ Including, but not limited to, HHH Home Care, Inc., HHH L.T.H.H.C.P., HHH CHHA and Hebrew Hospital Home of Westchester, Inc.

3. The MPPAA requires employers withdrawing from multiemployer pension plans to pay the employers' pro rata share of the pension plan's unfunded vested liabilities. 29 U.S.C. §§1381, 1391. Upon the Debtor's contemplated sale of its assets, the Debtor and its affiliates will have ceased to employ all of their 1199 bargaining unit employees, resulting in a complete withdrawal from the Pension Fund. As a result, Debtor and each member of its controlled group, including, but not limited to HHH Choices and each of the non-debtor affiliates listed above,² shall be jointly and severally liable for the Pension Fund's claim for withdrawal liability in the approximate amount of \$23.5 million.

4. The 1199 Funds also have an estimated \$8 million in claims against the Debtor and its affiliates for unpaid contributions and interest thereon, for which the Debtor and each of its affiliates may be jointly and severally liable as a joint or single employer of the 1199 bargaining unit employees.

5. On December 9, 2015, the Debtor filed the DIP Motion.

6. On December 14, 2015, the Official Committee of Unsecured Creditors in the HHH Choices Health Plan, LLC Bankruptcy filed the Committee Objection.

JOINDER

7. The 1199 Funds fully incorporate by reference all of the factual and legal arguments set forth in the Committee Objection.

8. For all of the reasons set forth in the Committee Objection, this Court should deny the interim relief requested in the Debtor's DIP Motion.

9. The 1199 Funds reserve their right to further object to the DIP Motion in advance of the final hearing.

² In addition to, but not limited to, Hebrew Hospital Home Foundation, Inc. and HHCS Inc.

Dated: New York, New York
December 14, 2015

LEVY RATNER, P.C.

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